

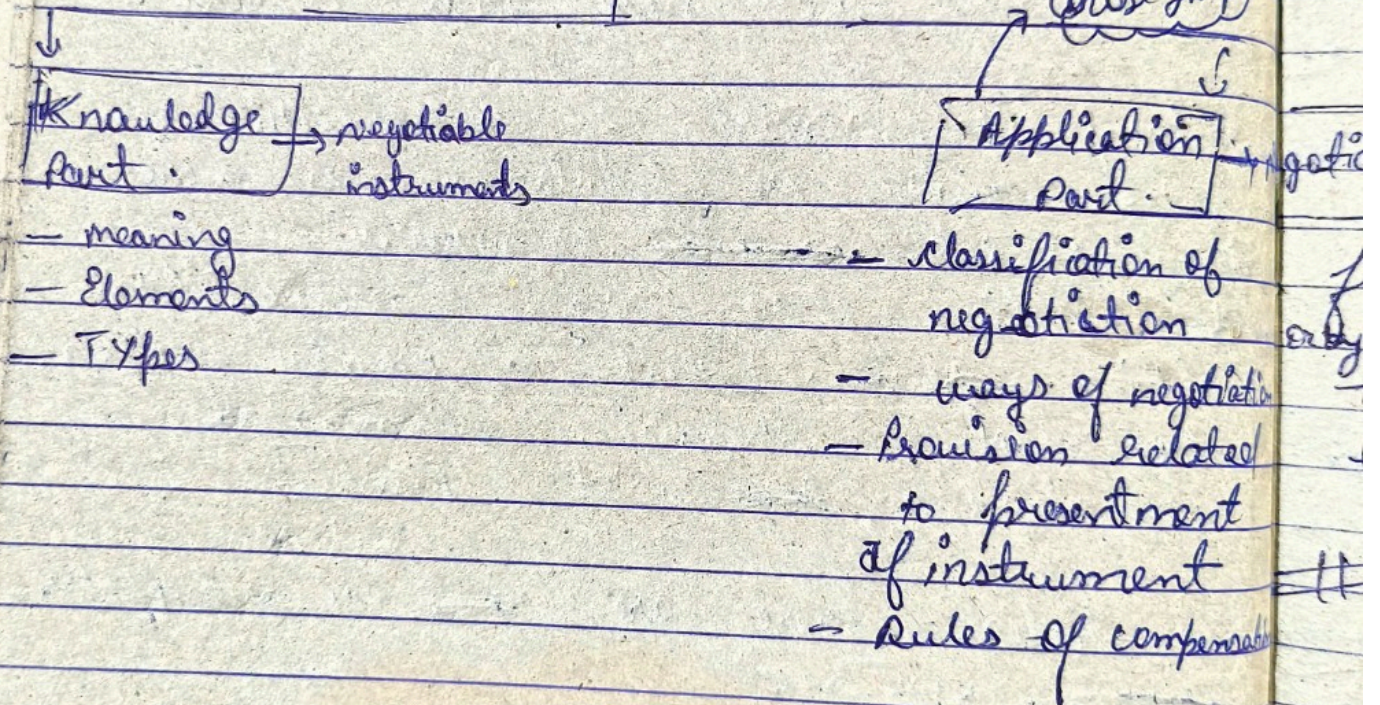
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Chapter - 7

The negotiable instrument Act, 1881.
↳ 1st March 1882

Topics



meaning of negotiation instrument :-

- written documents ✓
- transferable. ✓ (A → B → C → D) (file nature) (date mentioned)

E.g. Cheque []

Negotiable instrument :-

includes -> Section 4 - Promissory Notes
Section 5 - Bills of Exchange
Section 6 - Cheque

meaning :- Negotiable instrument is an instrument (document) which is freely transferable [by custom of trade] from one person to another by mere delivery without endorsement and delivery. The property in such an instrument pass to bonafide transferee for a value (or) money.

Bonafide transferee (purchaser) :- someone who exchange value for property without any reason to suspect irregularities in the transactions.

Types of negotiable instruments :-

- ① Promissory Note (Sec 4)
- ② Bills of Exchange (Sec 5)
- ③ Cheque (Sec 6)

1881.

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tion] -> negotiation

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negotiation
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Instrument Payable

↓
Payable to order

Payable to Bearer

- Expressed to be ~~payable~~ ^{so payable}
- Expressed to payable to specified person and does not contain words prohibiting its transfer.

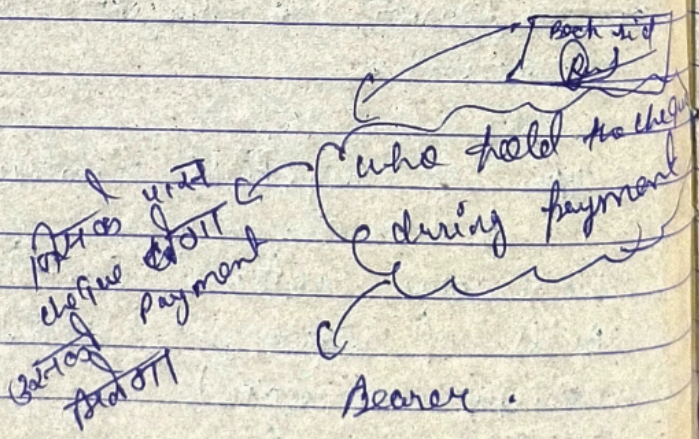
e.g. Payable to Mr X
then the payment is received by only.

[Pay to Mr X]

- Expressed to be payable.
- Pay to Bearer
- cheque made payable to specified person and that cheque is

[Endorsed] by him signing on the back side of the cheque

e.g. [Pay to]



Essential

- ① ~~is~~ written
 - ② Transferable till ~~the~~
- # Transferable

↓
[Endorsement]
written form
→ name ~~of~~ ^{of} ~~the~~ ^{the} specified person
ex: - Bills of Exchange

- ② Holder's
- No one can
a better title
he does not

Essential characteristics of negotiable instruments :-

- ① ~~is~~ written & signed. Ex :- cheque → X
 - ① without writing
 - ② without signed
- ② Transferable → Any number of times till ~~the~~ its satisfaction (payment made)

Transferable

(Endorsement)

• written form
↳ name ~~of~~ mention
specific person
ex :- Bills of exchange

(Delivery)

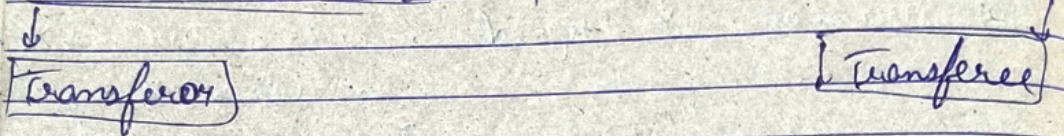
• Bearer instruments
↳ name not mentioned
Ex :- cheque without
mentioning the name
(self cheque)

③ Holder's title is free from defects (exception)
↳ ownership

No one can transfer
a better title than what
he does next have.

NAMO DAT QUAD NON
HABET

Holder



who transfer the negotiable instrument of

transfer in favour of Effective title

Effective title

Exp:- Fraud in Bills of Exchange

void

valid of bills of exchange

(4) Instrument must be certain :-
• certainty regarding amount payable

Ex:- 40,000 ← 50,000 (10,000 gap)

• certainty regarding time of payment.
Ex → 15 feb to 20th feb
↳ 5 days gap.

• certainty regarding payee
↳ to whom (max)

(5) Right

(6) In

de

* P

• Prom
• Signature
• pu
• Ex

• to
• to a
• other

pay

J
maker

petition filing in court

Date _____
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(a) Right to sue :- who hold the instrument legally have right to sue

(b) Instrument should be delivered :- mere drawing of instrument does not create liability.

delivery :- transfer → to specific person

↓
create liability

* PROMISSORY NOTE :- (Section 4)

- Promissory note - is an instrument in writing
- Signed by the maker / ~~drawee~~ ^{drawee} / debtor / payer - promise to pay.
- Promise to pay → it must be unconditional
- to pay a certain sum of money → to a certain person a certain money.
- other than bank note & currency note.

parties to promissory note :- 2 parties

↓
maker (promisor)

↓
payee

Drawer
(person who ~~make~~ promise to pay money)

Drawee
(who receives money)

1. Maker → person who make the promissory note
 • maker must signed the instrument i.e. promissory note.

2. Drawee / Payee → who received the money
 • to whom the money is payable.

Essential characteristics of promissory notes :-

1. In writing & signed by the maker.
2. Promise / undertaking to pay [Express promise to pay]
3. Promise to pay —
 - definite → ① Amount
 - unconditional → ① After death of the person
② After marriage of woman
③ After expiry of term
4. certainty of parties —
 - maker / payer
 - payee / drawee

9. Promise
 6. other

7. Stamp
 be of the
 of the
 stamp
 maker's
 or of

* Bills

A Bill of
 writing
 Order
 directiv

the person
 (a)
 (b)
 clearness

6. Promise to pay of money only - not in kind.

7. Other than a bank note or currency note.

7. Stamping :- A promissory note must be stamped in accordance with the provisions of the Indian Stamp Act, 1899 and such stamp must be duly cancelled by maker's signature or initials on such stamp or otherwise.

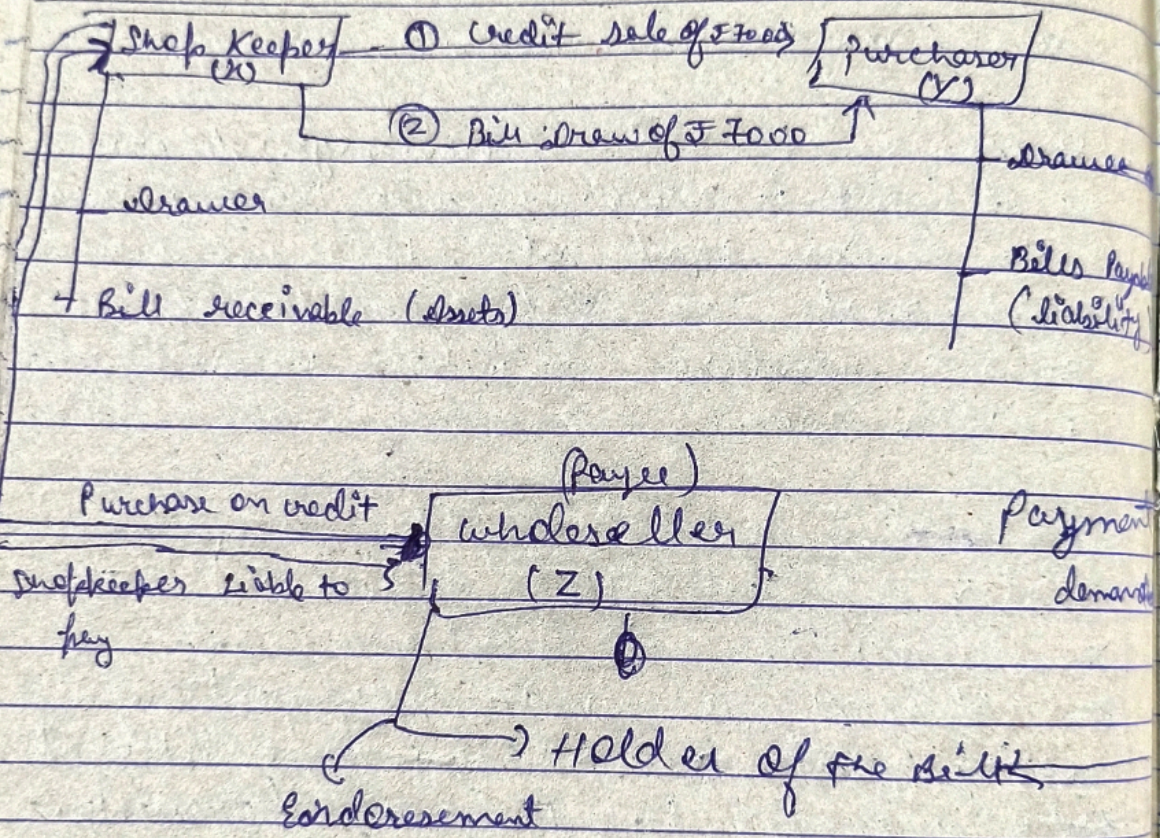
* Bills of Exchange (Section 5) :-

A Bill of exchange is an instrument in writing to ~~be~~ containing unconditional order signed by the maker/drawer directing a certain person to pay a certain sum of money

- (a) only to order of a certain person
- (b) to the bearer of the instrument
↳ Holder of the instrument.

* Bills of exchange is double secured document.

Process of Bills of Exchange :- 3 parties



* GHE & UE (Section 6) :-

• A cheque is a bill of exchange drawn on specified ~~banker~~ banker and not expressed to payment otherwise on demand.

cheque
true
elec

Note

• Che
th
+
* cl
① on

cheque includes the electronic image of a truncated cheque and a cheque in the electronic form.

Parties to a cheque :- (3 Parties)

- ① drawer
- ② drawee
- ③ payee

① drawer :- who signed a cheque (A/c / cheque draft)
- Rahul

② ~~drawee~~ drawee :- Bank name - BOB (liable to pay on behalf of R/L)

③ payee :- In favour of... (C/C)
who receives amount

Note :- cheque is always payable on demand.

• cheque is payable to bearer (holder of the cheque) signed on the back side of the cheque

* classification of cheque :-

① on the basis of term used :- 3 types

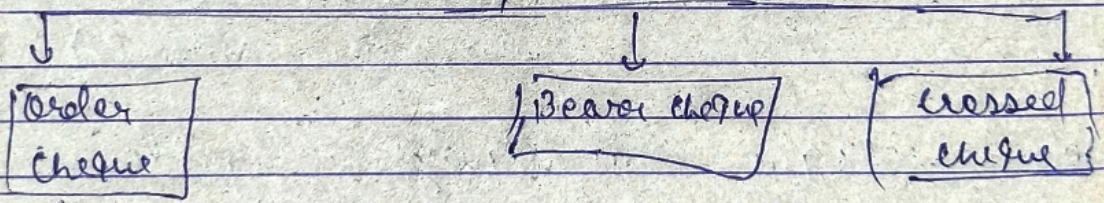
(i) truncated cheque → online image based cheque

- magnetic Ink character recognition (MICR)

(ii) Electronic cheque :-

- digital version of paper cheque.
- e-cheque
- with the help of IT Act, 2000 (Information technology Act, 2008)

(2) on the basis of crossing :- 3 types of cheque.

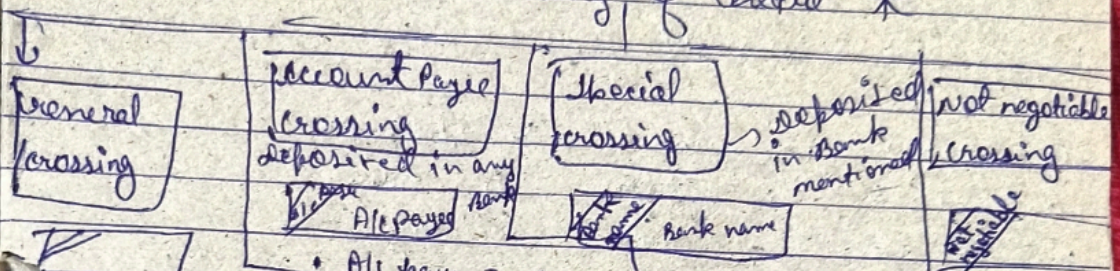


(1) order cheque :- cheque is only issued to the person whose name is mentioned on cheque.

(2) Bearer cheque :- Payment made to the holder of cheque

① crossed cheque :- (1) general (2) special

* Crossing of cheque *



This type of cheque crossing needs two parallel transverse lines

Banker on whom it is drawn shall not pay it otherwise then to banker

• All payee is also known as restrictive crossing
• This is not a bearer cheque

• Deposit in any bank A/c
• Credit amount only to account of payee restrict negotiability

• Only deposited into the bank mentioned
→ name mentioned
• Not need the name of the bearer

only specified person collect payment

• Acheive that cannot be deposited transferred even or exchange in cash

• The person who obtain the cheque no greater right than the person who gave it

classification of negotiable instrument :-

4 types of negotiable instrument :-

(1) on the basis of payee :-

- (i) Bearer instrument → cheque
 - name of the payee is blank
 - negotiated by mere delivery
 - ~~By del.~~

Ques :- BoE & P. note X according RBI Act, 1989
Sec. 31 - only cheque can be bearer instrument

(ii) Order instrument :- Bills of exchange & Promissory note.

- Name of the payee is mentioned
- Payable to order of a person
- By Endorsement & delivery.

(2) on the basis of ^{location} ~~central~~ :-

- (i) Inland instrument → major condition -
① instrument made in India.

ment :-

Additional condition — Instrument payable in India
or
instrument drawn upon a person resident
in India

Inland

Satisfy condition no. 1 & any of
the from additional condition.

t, 1929

(ii) Foreign Instrument :- instrument
which is not an inland instrument.

not satisfy the major condition

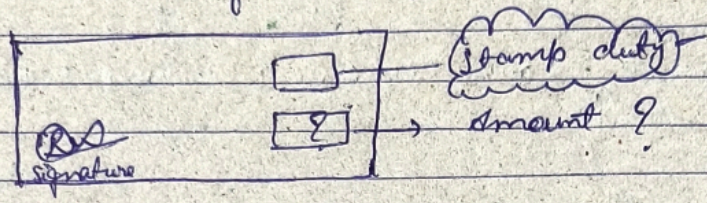
(3) On the basis of validity :-

(i) Inchoate Instrument \rightarrow incomplete
instrument.

Instrument wholly blank or written
word incomplete.

Holder make it complete by writing
amount.

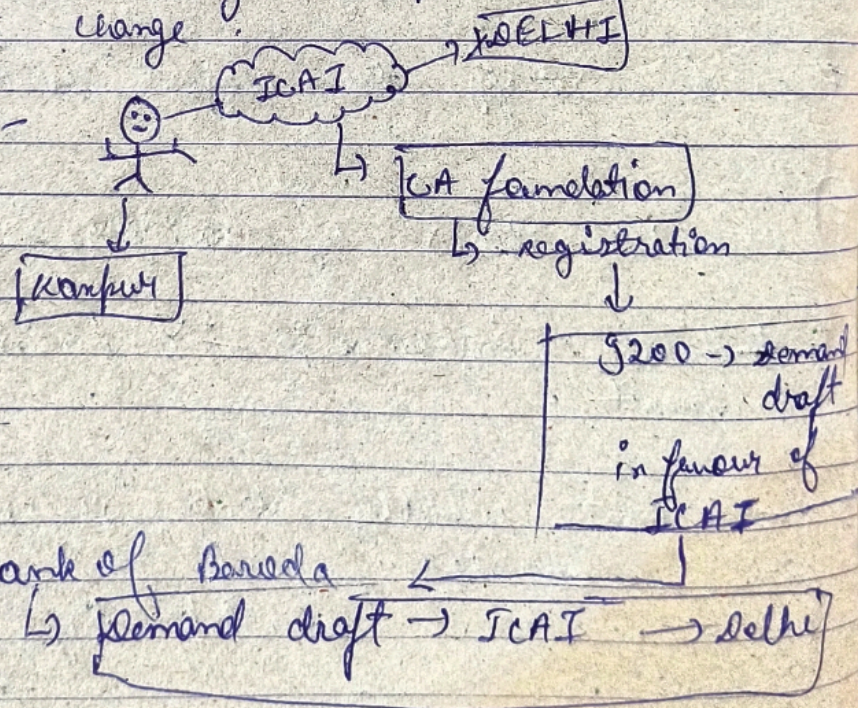
• Limit specified by stamped duty.



(ii) Ambiguous Instrument :-

- complete instrument.
- something which is not clear either it is BOE or promissory note.
- holder may at his election.
- after exercising the option the holder cannot change.

Example :-



[Demand]

ICAI
↓
demand draft (Dr)

conclu

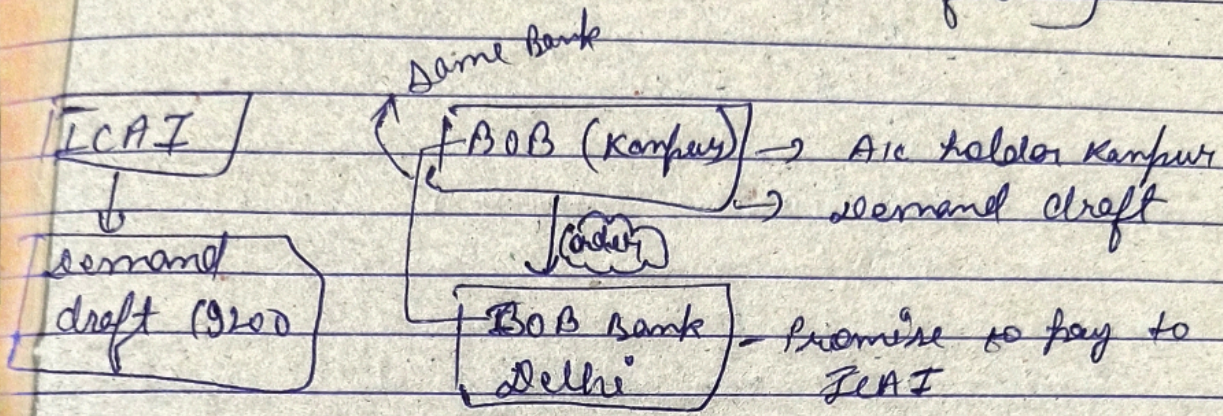
Election note

note

(4) on

(i) demand
Exp. cl
• pay
• A

Demand draft → 19200 → order
 ↳ written
 ↳ negotiable
 ↳ transferable } instrument



conclusion :- Bill of exchange → order ✓
 or
 promissory notes → promise to pay ✓

Election of → Bills of exchange or promissory note.

note :- understanding

(4) on the basis of payment :-

- (i) demand instrument → Time for payment
- Exp. Cheque & Payable at sight is not specified
- payable on demand
 - payable on presentment

(ii) Time instrument :-

Ex. Term insurance

- Time specified ^(or)
- certain event specified

Ex. Mr. Sukhyanilal take a term plan of ₹ 10 lakhs.

- Insurance co. promise to pay after the death of Mr. Sukhyanilal to nominee of Sukhyanilal.

* Negotiation (transfer) of negotiable instrument
↳ (freely transferable)

- negotiation means transfer of ownership of instrument from one person to another.
- negotiation by delivery → payable to ~~bearer~~ ^{bearer}
- negotiation by endorsement & delivery → payable to order.

* mode

- ① By ~~_____~~
 - If bearer
 - It may transfer

- ② By (spec)
 - If + specif
 - or to
 - it m

Term

- ① It r
- ② must

* End of the face his

* modes of negotiation :- 2 modes.

① By delivery → Bearer.

- If the instrument is payable to the bearer ^{हालाने} ^{आत्मकाने} ^{सुमकाने} any one.
- It may be transfer by delivery to the transferee.

② By Endorsement & delivery :- Order (specified person).

- If the instrument is payable to the specified payee (identified) or to his order.
- It must be Endorsed.

Condition / → 2 conditions.

- ① It must be writing.
- ② must ~~not~~ be signed by the holder.

* Endorsement ^{→ specified person} :- when a maker or holder of the instrument write the person name on the face or back of the instrument and put his signature thereto for the purpose of

negotiation, it is called Endorsement.

• person name └─ Back side
└─ Face side

• Signatures

• Purpose of negotiation (freely transferable)

Endorser → person who sign.

Endorsee → to whom it is endorsed.

Classification of Endorsement

① General or Blank :-

• no payee is specified.

• Incomplete

• The person who ~~possesses~~ possess it can demand payment.

• If the ~~endorsement~~ is Endorser ~~the~~ sign the name only (incomplete)

with out writing name (Blank)
[Order to Bearer]

② Special or full Endorsement :- specified
• payable to an identified payee (person)
• complete endorsement
• to whom make the instrument payable

③ Restrictive Endorsement :-
• Limitation
• Limiting payment to a particular person
• further transfer of (instrument) negotiation is not effective X
no right of further negotiation

④ Partial Endorsement :-
• It is invalid not full amount.
• Endorsement which allow transferring to the Endorsee a part of the amount payable.

⑤ SANS Recourse Endorsement :-
• conditional endorsement
• Receiver can't file a case against endorser. [in case of dishonour]
→ is off
• The endorser waive their liability for the completion of the endorsement.

* Presentment of NI :-

① Presentment for acceptance → Bills of exchange.

→ A Bill payable after sight.

→ A Bill in which condition for acceptance needed.

→ requires acceptance.

② Present for payment :- Negotiable instrument.

Rules for presentment for acceptance

① By whom → By holder or someone behalf of holder.

② To whom → Drawee.

③ Time and place → If specified - as specified.

not specified → Reasonable place & time.

④ Max time allowed :- 48 hours to

consider
bill.

• If to
present

⑤ when
drawee

• draw
• draw

Default
dishonor

→ no li

→ no
→ No

Note :-
to

considers whether he will or not accept the bill.

• If holder awaits more time, all previous parties not consenting were discharged.

(5) when not required → drawer not found
drawer not dead or insolvent.

• drawer is fictitious.

∴ drawer is incompetent to contract.

Default in presentment :-

Dishonour due non acceptance (Sec 91)

→ no liability of drawer under bill.

→ no privity of contract.

→ No party liable.

Note :- Promissory note after sight must be presented to maker for sight.